

Appl. No. 10/675,684  
Resp. dated Sept. 28, 2009

Reply to Action of May 1, 2009

### **REMARKS**

The May 1, 2009 Action withdrew the Section 102 rejection to all claims, rejected all claims under Section 112, and rejected claims 1-7 and 9 under Section 103. ***Applicant notes that Claim 8 is only rejected under Section 112. Accordingly, should the Examiner agree that the enclosed amendment to claim 1 overcomes the Section 112 rejection to claim 1 (for which claim 8 depends), then Applicant believes claim 8 is in condition for immediate allowance.*** For the following reasons, Applicant respectfully requests withdrawal of the rejections.

### **In the Claims**

Applicant acknowledges and thanks the Examiner for withdrawal of the Section 102 rejection of claims 1-3, 7 and 9 as being anticipated by Russell et al., U.S. Publication No. 2002/0049679.

Claims 1 and 3 are amended herewith. Support for the amendments can be found in, e.g., paragraphs [0013], [0031], [0035], [0037], [0050] and [0058]-[0061]. No new matter is being submitted.

Claim 6 is herewith cancelled.

### **Claim Rejections – 35 USC §112**

All claims pending, 1-9, stand rejected under 35 USC §112, second paragraph, as being indefinite. In particular, the Examiner states the terms "acting as" renders claim 1 indefinite and it is "unclear whether or not the hardware device is a separate entity" from the programming workstation. Applicant submits amendments to claim 1 to clearly recite that "a programming workstation in communication with but separate from said target hardware device". Applicant respectfully requests withdrawal of the Section 112 rejection to claims 1-9.

### **Claim Rejections – 35 USC §103**

#### **Primary Reference- Russell**

Claims 1-7 and 9 stand rejected under 35 U.S.C. §103 as being anticipated by Primary Reference, Russell et al., US Publication No. 2002/0049679 published on April 25, 2002 in view of Misra et al., US Patent No. 6,189,146 issued on Feb. 13, 2001. Additionally, claims 4 and 5 are rejected further in view of Stefik et al., US Patent No. 7,209,902 issued on April 24, 2007. For the reasons stated herein, Applicant

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respectfully traverses these rejections.

In general, Russell discloses a system for viewing digital content on a user network-enabled device by enabling a license. A user contacts a main website with the user network-enabled device and views the content available (e.g., digital movies). The user may select and download the movie to the user network-enabled device but it is not viewable until the user obtains a license. Thus, the user requests a license for a specific movie. Information is gathered to generate the license and may include desired rental model, an expiration date for the rental model, and information that identifies the user network-enabled device. Based on the information, a license is generated and then transferred to a protected database on the requesting user network-enabled device. Before the movie will play, the media player and security technology residing on the device examines the license to verify its validity. If the verification conditions are satisfied, the license is enabled and the user will be able to view the movie. (See Russell Summary of Disclosure, i.e., [0010] – [0014])

Applicant discloses and claims:

*a virtual warehouse website created specifically for a single end user, said virtual warehouse having a storage comprising a personal inventory of intangible software components selected for storage because each of said components is compatible for operating with said target hardware device, said personal inventory being associated in said warehouse with only said end user and said hardware device unique identifier.*

The virtual warehouse is a personal inventory of intangible software components selected specifically for the client and the client's hardware device. The client accesses the warehouse and is able to view the personal inventory (e.g., Applicant's Figure 9). At such time as the client is ready to create a license for the target hardware device, the client simply selects from the personal inventory of software components and a license generator creates the license. The generated software license for the target device is stored in the virtual warehouse. Again at a potentially later time, the client or the client's representative, may access the virtual warehouse and transfer the software license to a programming workstation for storage and use in the target device.

In contrast, Russell does not have a virtual warehouse containing a personal inventory of intangible software components selected for storage because each of said

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components is for operating with said target hardware device. Rather, Russell discloses a main website of all the content (e.g., movies) that are available, not simply the ones that are specifically selected to be compatible with a certain target device. Applicant's virtual warehouse is specific to the client and to the client's hardware device.

The Examiner incorrectly believes that Applicant's virtual warehouse website is akin to the "protected database" or "PD" disclosed by Russell. The protected database is a storage located on the user network-enabled device and houses the license for the specific content. (See Russell [0011] and Figures 3 and 4). The Examiner further states that Applicant's target hardware device is akin to the "user network-enabled device" disclosed by Russell. Thus, the Examiner is incorrectly stating that the virtual warehouse website is within or on the target hardware device. Applicant's virtual warehouse website storage is not located on the target hardware device nor do Applicant's claim recite this.

Further in contrast, Russell requires that the particular user network-enabled device communicate directly with the main website to receive the downloaded license. (See e.g., Russell [0011] "The license is then transferred to a protected database on the requesting user network-enabled device." And [0050] "...the user will be required to connect to the main website again at a later time using that particular UND [user network-enabled device] and transfer the purchased license to that UND.")

Applicant's claim recites that a "programming workstation" receives the software site license on behalf of the target device. Thus, the target device is not required to communicate directly with the virtual warehouse website, but rather a separate device does this, i.e., the programming workstation.

The Examiner states that Russell discloses a programming workstation and points to a media player for support. While a media player may include a programming workstation if taken in the broad sense of the words and out of context with Applicant's specification. However, the claims must be interpreted in light of Applicant's specification. The Examiner is directed to Applicant's paragraphs [0036] which clearly defines a programming workstation. Moreover, the Examiner is again improperly combining claim elements. Russell discloses a media player as a possible type of user

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network-enabled device. Thus, the Examiner is incorrectly stating that Applicant's claimed target hardware device and programming workstation are the same element. They are not the same and the claims now recite that the programming workstation in communication with separate from said target hardware.

The Examiner points to Russell paragraph [0031] for support of the virtual warehouse as recited by Applicant. Further, the Examiner points to Russell paragraphs [0045] and [0047] for support of a software site license being stored in the virtual warehouse storage for later use. Applicant submits that nowhere in the recited paragraphs of Russell (or anywhere else in Russell) does Russell disclose that the license is generated from the stored software components for the target hardware device and stored in a virtual warehouse storage for later use.

#### **Secondary Reference – Misra**

The Examiner admits that Russell fails to teach each and every element of Applicant's claims as recited. Specifically, the Examiner admits that Russell does not teach that the programming workstation is a separate entity from the target hardware device. As pointed out above, since Russell fails to teach the two are separate entities, then the Examiner's assumption that "programming workstation" is akin to the "media player" disclosed by Russell must also fail. As it clearly recited in Russell, the media player resides on the user network-enabled device (which the Examiner states is akin to Applicant's target hardware device). (See Russell par. [0012]). Further, the Examiner admits that Russell does not teach that the programming workstation receives the software site license from the virtual warehouse storage on behalf of the target device. Misra is cited to fill in both these deficiencies.

In general, the Misra system 20 has a licensing clearinghouse 22 that creates and issues valid software licenses and is a separate entity from company 24. For example, the clearinghouse may be the software manufacturer or vendor. The company has at least one designated license server 28 and the license pack from license generator 26 is sent to license server 28. The license server 28 is responsible for distributing the software licenses contained in the licensed pack to clients 30. The license server 28 stores the individual software licenses for subsequent distribution to clients 30. When a client needs a license, the license server determines the client's

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operating system platform and grants the appropriate license and the current license is stored locally at the client. The license server 28 maintains an inventory of licenses that have been purchased and monitors the licenses that have been granted to the clients. One or more intermediate servers 32 facilitate the license distribution from the server 28 to the clients 30, and if the client does not have an appropriate license, the server 32 assists the client in obtaining the license from the license server 28. Once the license is received, it is stored in a license cache at the client. (Misra Abstract; Misra column 3 line 59 to column 4 line 58).

As clearly recited in Misra, the license server receives all the licenses from the license generator. In other words, the licenses are generated *without specific knowledge of the clients* and sent to the license server for storage. *When a client needs a license, the license server determines the client's operating system platform and grants the appropriate license from the license server storage.* Misra fails to disclose that the license is generated using *a personal inventory of intangible software components selected for storage because each is compatible for operating with a particular target hardware device.* Furthermore, *the personal inventory being associated in a virtual warehouse created specifically for a single end user and for a specific hardware device unique identifier.* Rather, Misra determines what already-generated license will match the client *after* the client requests a license. The license is not stored in a virtual warehouse as recited by Applicant.

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**CONCLUSION**

In view of the foregoing, Applicant requests consideration of the enclosed remarks, entry of amendments, and withdrawal of the Section 112 and 103 rejections. Should the Examiner wish to discuss any of the above in greater detail, then the Examiner is invited to contact the undersigned at the Examiner's convenience. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,  
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Date:

September 28, 2009

By:

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